

Message Text

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ORIGIN OPIC-06

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TO AMEMBASSY LISBON PRIORITY

UNCLAS STATE 304696

E.O. 11652: N/A

TAGS: EFIN

SUBJECT: OPIC INVESTMENT PROGRAM IN PORTUGAL

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REF; (A) LISBON 7667 (B) STATE 208121

1. IN RESPONSE TO POINTS MADE IN REF. A, OPIC HAS
FOLLOWING COMMENTS:

A. TO SATISFY CONCERN OF GOP RE CLAUSES IN 1948
ACCORD, OPIC PROPOSES TO RELY SOLELY UPON 1953 AGREEMENT
(AMENDING 1948 ACCORD) FOR RESUMPTION OF ITS PROGRAM.
1953 AGREEMENT, WHICH ONLY COVERS INCENTIVE PROGRAM, IS
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SEPARATE AND INTEGRAL ACCORD EXISTING INDEPENDENTLY OF
1948 ACCORD. THUS IF USG AND GOP BASE RESUMPTION OF
OPIC PROGRAM ON 1953 AGREEMENT, PROBLEMS GOP MENTIONED IN
REF. A ARE AVOIDED. TO REFLECT OPIC'S PROPOSAL, FIRST
SENTENCE OF DRAFT OF EXCHANGE OF NOTES SET OUT IN PARA.
2 OF REF. B SHOULD READ:

QUOTE: I HAVE THE HONOR TO REFER TO THE
AGREEMENT EFFECTED BY THE EXCHANGE OF NOTES
ON MAY 22 AND 25, 1953, BETWEEN OUR TWO GOVERNMENTS ON
THE SUBJECT OF U.S. GOVERNMENT INVESTMENT INSURANCE AND
GUARANTIES. END QUOTE.

B. THE TWO QUESTIONS ASKED ASSUME THAT THE USG OR
OPIC BECOME DIRECTLY INVOLVED ON AN INTER-GOVERNMENT
LEVEL WHENEVER AN INSURED INVESTOR SUBMITS A CLAIM TO
OPIC. THIS IS NOT THE CASE. THE INSURANCE COVERAGE IS
DESIGNED TO ENCOURAGE THE INVESTOR TO SETTLE ISSUES,
SUCH AS COMPENSATION FOR NATIONALIZATION, THROUGH
AMICABLE NEGOTIATION DIRECTLY WITH HOST GOVERNMENT RATHER
THAN RESORT TO DIPLOMATIC INTERVENTION. OPIC-INSURANCE
COVERAGE ALLOWS FOR A REASONABLE PERIOD OF TIME (USUALLY
ONE YEAR) TO ELAPSE DURING WHICH THE INVESTOR AND HOST
GOVERNMENT MAY RESOLVE QUESTIONS OF COMPENSATION. IN
THIS WAY ISSUES CAN BE SETTLED BEFORE THEY ARE RAISED
TO THE LEVEL OF AN INTER-GOVERNMENTAL DISPUTE.

C. THERE IS NO FORMAL WRITTEN EVIDENCE OF SUSPENSION
OF INVESTMENT INCENTIVE PROGRAM FOR THE PORTUGUESE
METROPOLE. VERBAL DISCUSSIONS WERE HELD WITH FONMIN
OFFICIALS (CALVERT DE MAGALHAES) ON SUBJECT OF TERMINA-
TION AND THEY EXPRESSED NO OBJECTION. EMB. MAY WANT TO
REVIEW MATTER BY REFERENCE TO FOLLOWING 1969 CABLES:
STATE 168722, STATE 175890, AND LISBON 2321; AND 1970
CABLES: LISBON 312 AND STATE 14656.

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D. NO ACTION REQUIRED BY GOP AT THIS TIME REGARDING
(C) OF 1953 AGREEMENT. SELECTION OF ARBITRATORS WOULD
ONLY TAKE PLACE IF A CLAIM AGAINST GOP COULD NOT BE
RESOLVED BY DIRECT NEGOTIATIONS BETWEEN GOP AND USG.

2. OPIC HOPEFUL THAT FOREGOING WILL SATISFY CONCERNS OF
GOP AND THAT EXCHANGE OF NOTES MAY NOW BE EFFECTED. IF
EMB. STILL BELIEVES OPIC REP SHOULD VISIT PORTUGAL
PRELIMINARY TO EXCHANGE OF NOTES, PLEASE ADVISE.

3. FOR EMBASSY'S INFORMATION, DEPARTMENT IS POUCHING A
PAPER ON THE PURPOSES AND PROCEDURES OF THE CIEP INTER-
AGENCY STAFF COORDINATING GROUP ON EXPROPRIATION, WHICH
COORDINATES USG POLICY ON EXPROPRIATION ISSUES. KISSINGER

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